



CITY OF MANCHESTER

PLANNING AND COMMUNITY DEVELOPMENT

Planning & Land Use Management
Building Regulations
Community Improvement Program
Zoning Board of Adjustment

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MANCHESTER ZONING BOARD OF ADJUSTMENT VIRTUAL PUBLIC HEARING / BUSINESS MEETING MINUTES Thursday, May 28, 2020 – 6:00 p.m.

Board Members Present: Chairman Robert Breault, Vice Chairman Jose Lovell, Michael Simoneau, Alderman Jim Roy

Alternates Present: Alderman Keith Hirschmann, Guy Guerra, Anne Ketterer

Excused: Joe Prieto

City Staff Present: Michael Landry, Deputy Director of Building Regulations
Jonathan Golden, Senior Planner
Sheila McCarran, Administrative Assistant II

I. The Chairman calls the meeting to order and introduces the Zoning Board Members and City Staff.

II. PUBLIC HEARING:

(Current Items)

Micheal Landry said case ZBA2020-30 which is property located at 445 Westwood Drive will be postponed until the June 11, 2020 ZBA meeting. He said the meeting will be done in a virtual format at 6:00 pm.

1. ZBA2020-024
132-134 Orange Street, R-3 Zoning District, Ward 3

This case is a rehearing that was requested by William Stergios who appealed the grant of a variance to Agnes Nyakundi at the November 14, 2019 hearing.

Agnes Nyakundi proposes to create four new parking spaces in the side yard where one

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space is within 3' of the building and with lot coverage of 86.6% and seeks a variance from sections **6.04** Lot Coverage and **10.09(B)** Parking Setbacks, of the Zoning Ordinance of the City of Manchester, New Hampshire, as per documents submitted through May 20, 2020.

Agnes Nyakundi said she thinks that she represented her case with the information that she sent into the office.

Chairman Breault said he sees that Ms. Nyakundi modified her drawing to include some green space at the head of the parking and not bring the parking all the way forward. He said that would be a modification from her original application. Mr. Nyakundi said that was correct.

Chairman Breault turned the hearing over to the Board.

Guy Guerra said from what he read at the beginning of this, this was a rehearing of a granting. He asked if this was already granted. Chairman Breault said the Board granted this and then Mr. Stergios came to the Board and requested a rehearing. At the time, he made representation that he hadn't received notice in a timely fashion and based on representations that he didn't think Ms. Nyakundi had the available space for it. Chairman Breault said the Board would let Mr. Stergios speak to that as he was present this evening.

Chairman Breault asked if there was any correspondence in favor of this application. There was none and he asked if there was any correspondence in opposition to this application.

William Stergios said he owns the property at 136 Orange Street and he is a direct abutter to Agnes Nyakundi and her husband Evans at 132-134 Orange Street. Mr. Stergios said he applied for and was granted a rehearing on their case #ZBA2019-156. He said he paid the \$465.00 to have the rehearing. He said late last week, he got the notice in the mail that there would be a rehearing tonight and to his surprise, it is not a rehearing on that case but on a new case that they submitted, ZBA2020-024 with a completely different requests that were not on the first case. This new plan has not been heard yet and it supersedes the older plan that they submitted and was heard last November. That older plan no longer exists so there cannot be a rehearing on it. The Planning Department knew this and he thinks they should have refunded his \$465.00. Instead, it appears that they are using his \$465.00 to pay for Ms. Nyakundi's new plan that she submitted.

Mr. Stergios said he knows a little bit about how these procedures work because he was on the Zoning Board and Planning Board in Candia for several years. He said he has never heard of anything like this. He said he made his concerns known to Michael Landry yesterday but he brushed his concerns aside and said that this show must go on as scheduled. He said the only people who can make things right here are the Board members on the ZBA. He is asking the Board members to do that and stop this from continuing any further tonight. If they want to submit a new plan, they need to pay the \$465.00 and submit a new plan and give him his \$465.00 back because the old plan no longer exists and there cannot be a rehearing on it. There cannot be a rehearing on this new plan because it has not been heard yet.

Furthermore, they said to go to this certain website and you will see the plans that are going to be submitted tonight. He said he went on there and these plans aren't on there. He said if they got on there, they got on in the last few hours and he has never seen these plans. He said this can't go on like this. It is not the right thing to do. He said he is asking the Board to stop it right now.

Michael Landry said Mr. Stergios did point out the fact that the plans were not posted and as soon as he mentioned that, he went to one of his colleagues and asked her to post it and it was posted within fifteen minutes. He said during his conversation with Mr. Stergios, he did tell him to look in a couple of minutes and it will be posted very shortly. It wasn't a matter of a couple of hours ago, it was yesterday afternoon, probably around 3:30 pm or so. Mr. Stergios said he didn't log in until 4:00 pm so it wasn't 3:30 pm. Mr. Landry said it was shortly after they spoke.

Chairman Breault said he would keep the public hearing open until he hears from other members of the Board.

Guy Guerra asked if this was in fact a different plan than the one that was seen back in November. Chairman Breault said it was. He said it has less impact, actually. Mr. Guerra said it is not a question of the impact, it is a different plan than what was shown before so that being the basis, he would agree with Mr. Stergios.

Alderman Roy said he would respectfully disagree with the other two people. He said this rehearing was granted and first of all, it was done with an inaccurate representation saying that there wasn't enough room. He said he believes it was nineteen feet. He said that wasn't accurate and if he hadn't been given that information, he wouldn't have voted to have a rehearing. He said to the point of not listening to this, he believes Mr. Stergios is the one that opened the door here. He asked for the rehearing and when the rehearing came up, he believes that these people have every right to put up whatever they want to put forward. He said they don't have to reapply, they have the ability to put up what they have now which he thinks is a better plan than the first one. He said he doesn't think there are any rules against that.

Vice Chairman Lovell said he raised his hand at the exact same time as Alderman Roy to say the same things. He said he would add to what Alderman Roy said as far as the plan changing. He said it is a regular occurrence that the Board gets a new plan potentially just handed to them during the hearing. To say that this doesn't happen, he finds false.

Michael Landry said he wanted to point out to Guy Guerra that a rehearing is treated as a new hearing with a new application and there were new notices and a new case number. He said the plan was also revised to address some of the concerns about providing green space that was mentioned earlier.

Chairman Breault asked if there were any more comments before he closed the public hearing.

William Stergios said Mr. Landry said they are addressing some concerns he had, so they are increasing the parking from two spaces to four spaces. He said it is a five unit apartment house and they have three spaces in the back and they originally came for two in the front which would give them five spaces for five apartments. Now they want seven spaces for five apartments and he hasn't seen the plan, but he met with Evans, Agnes's husband, and Evans told him in so many words to, putting it politely, go fly a kite and it is his property and he will do whatever he wants and Mr. Stergios had nothing to say about it. Evans told Mr. Stergios to look across the street. He said everything is paved right up to the buildings and he has the right to do that and Mr. Stergios can't say anything about it.

Mr. Stergios said Evans had 76 feet from his front lot line to his cottage in the back and if he paves that by 25 feet wide that is twelve parking spaces plus the three in the back. That is a commercial parking lot. What is he going to do? Rent spaces out to people in the neighborhood? If he is going to make a commercial parking lot then he needs to do lighting, storm drain and buffer strips just like he is making a commercial parking lot on his vacant lot on the corner of Walnut Street and Bridge Street. He is going through all the procedures the right way. He said he doesn't need a junkyard 5 feet away from his tenant's windows and that is what it is going to end up being. He said if they want two parking spaces, he is agreeing to that and he drew out a plan that they can have two parking spaces. They would go from their front lot line, 20 feet back by 17 feet wide and you would have two parking spaces. He said you don't need to pave 76 feet back to your cottage. He said they rent to people with kids and the kids need to play out in the yard. They need some green space to put a little wading pool out there and have a barbeque. They don't need twelve cars back there and the kids will be playing under and between the cars on pavement. That is not cool. He said he would agree to let them have their two parking spaces, 20 feet deep, 17 feet wide and leave 3 or 4 feet between his lot line and their pavement and 3 feet from their house to their pavement and they have their two spaces.

Mr. Stergios said when he met with Agnes and Evans, he asked them who drew up this plot plan up. He said they said the Planning Department drew it up for them. He said he didn't know that the Planning Department drew up plot plans for people at taxpayer's expense. He said when he went to do a set of porches and hallways, the Planning Department told him that he had to draw the plot plan up and to make sure that he measured everything. This plot plan was drawn up at the Planning Department using a GIS map off of the computer. No one went to that property and measured anything. The GIS map has his property lines 5 feet off from what it actually is. He finally got Mike Landry to come down there and they measured and found out that the property line is 5 feet off. He said he has a problem with the way this whole thing was done and he feels like he is not being treated fairly. He said he is fine with the two parking spaces that they originally wanted, give them the 3 feet from their house and if he has to he will give them a foot off his 4 foot setback on his side so they can have two spaces. Then they will have five spaces for five apartments. He said his building next door has eight apartments and he only has six spaces but he makes do. He is not out here saying he needs to have twenty spaces for his building. He said to give them the two spaces and he will give them a foot on his side and they get a foot on the other side

so 20 feet deep. He said he would be happy and they will get what they wanted and they should be happy with that. To pave 65 feet, 76 feet deep, that is just not the way things should be done. He said those are his concerns.

Chairman Breault asked Ms. Nyakundi if she had anything to say before he closed the public hearing. Ms. Nyakundi said number one, they are not making seven or ten parking spots and number two, she doesn't have three parking spots in the back. These are the concerns that Mr. Stergios had and then they met him there and measured and the measurements were exactly the way the plot plan was done. There is nobody at City Hall who drew the plan for her. She said she resubmitted the application according to Mr. Stergios's concerns and his concerns were that he wanted her to leave some grass and she did. She said she doesn't know why he is saying that it is going to give her the four feet when he was saying that she doesn't need to be in all the areas that she wanted to be. She said they are already approved for the parking spaces in the front and that is what they are going to do. They are not going to have a parking space for the whole world. They are going to have a parking space for the tenants who have been losing money because their cars in the winter time get towed. Every time they get towed, they have to pay. She said whatever idea that Mr. Stergios has that she is going to be bringing a bunch of people there or a bunch of dead cars to be in the parking lot is not true and that is not going to happen. She said what she put on the most recent plan was because of his concerns and she thought she satisfied these concerns.

Chairman Breault turned the hearing back over to the Board.

Chairman Breault said he took the opportunity to visit this site as Ms. Nyakundi took some dimensions and did a little research and determined property lines as they are shown on this plan to the best of his abilities and saw that she only has one parking spot behind the property so adding four, making it a total of five parking spaces for five dwelling units is not unreasonable. He said he thinks Ms. Nyakundi has a hardship here and based on that hardship and the fact that she modified her drawing to accommodate the abutter's concern, leaving some green space at the head of the parking is satisfactory to him.

Alderman Roy said he agrees with what Chairman Breault said. He said this neighborhood was probably developed a hundred years ago and it is very tight. He said it is a one way street and if you go down there, it is impossible to find a parking space. He said he thinks there is absolutely a big benefit to the neighborhood by eliminating one parking space on the street to allow them the access to park these four cars. The community there is going to gain three parking spaces on the street which is going to help everybody out. He said he didn't think this was going to change the neighborhood in any way, so it won't be contrary to public interest. He said he does think that they have a hardship here and he believes that this is a well thought out plan in response to the abutter's complaints about the green space. He said he is in favor of this application.

Vice Chairman Lovell said he wanted to add that this is five dwelling units and a store. It is even more reasonable and he keeps coming back to the fact in his head that if this case was

approved and the Board is rehearing it now based on basically false information and the plan has been revised closer to the abutter's wishes, he agrees with everything that Alderman Roy said. He said this meets the five criteria.

Guy Guerra said he sees on the plan one parking space on the back, yet the abutter mentioned there were three parking spaces in the back. Chairman Breault said there is only one. Mr. Guerra asked if the abutter was making up two spaces. He said he must have seen three cars back there at some point. Mr. Stergios said he has seen more than one car.

Jose Lovell made a motion to grant the following variance counts for case ZBA2020-024, 6.04 Lot Coverage and 10.09(B) Parking Setbacks which was seconded by Jim Roy.

Yeas: Breault, Lovell, Simoneau, Roy

Nays: Guerra

Upon a split vote, the variance was granted.

2. **ZBA2020-025**
118 Taylor Street, R-2 Zoning District, Ward 7

Normand Lemay proposes to maintain a front yard parking space within 4' of the building and lot line and seeks a variance from section **10.09(B)** Parking Setbacks, of the Zoning Ordinance of the City of Manchester, New Hampshire, as per documents submitted through April 28, 2020.

Michael Landry said Mr. and Mrs. Lemay are watching this on TV and are available by phone. He said they spent two hours on the dry run yesterday trying to log on and they were unsuccessful. He said they apologize but they gave it their very best effort. He said if there are any questions for the Lemay's, he would be happy to give them a call. He said he knows they are sitting ready to take any questions the Board may have.

Mr. Landry said he did have one letter in support of this application when it is time for public comment.

Chairman Breault turned the hearing over to the Board.

Alderman Roy said he wanted to ask staff what triggered this request. He asked if Mr. and Mrs. Lemay tried to get a permit for something else. Mr. Landry said he believes that they applied for a permit to repave that area and it was determined that it was never permitted. A permit at this point could not be issued due to the fact that it is within four feet of the property line and building. Alderman Roy said if he understands it right, they came in to do everything right and get a permit to do their paving and by the documents that he has before him, this has been there since 1971 and it hasn't affected the neighborhood whatsoever. He asked Mr. Landry if there have been any complaints. Mr. Landry said he is

not aware of any complaints.

Chairman Breault asked if there was any correspondence in favor of this application.

Mr. Landry said he had a letter from Thomas Levasseur and he read it into record.

I live at 49 Hubbard Street in Manchester, New Hampshire. I own the three-family property across the street from 118 Taylor Street. My wife and I purchased this home in 1987 and as far as I can remember, there has always been a driveway in that location. I would like to support Mr. Lemay for this variance. He takes great pride in ownership of this property. I believe he should be allowed two off-street parking spaces. Off-street parking is a commodity in that area because of the hair salon to the north of my house and a six-family to the south and no parking on the west side of this street.

Thomas J. Levasseur

Mr. Landry said that is the only comment he has on this case. There was no correspondence in opposition to this case or general comments.

Chairman Breault turned the hearing back over to the Board.

Chairman Breault said he thinks this is one of those cases in a very congested neighborhood that is an existing condition and has been there for a long time. He said it was flagged when they applied for a permit.

Alderman Roy said he doesn't think that granting this variance would be contrary to the public interest and he thinks it is going to do it substantial justice in this case.

Michael Simoneau said he echo's Alderman Roy's comments. He said he did drive by this particular home and it looked like the driveway has been there for many, many years. He said there is pride in the neighborhood and you can see that in the subject property. He said he doesn't have an issue with this application.

Jim Roy made a motion to grant the following variance count for case ZBA2020-025, 10.09(B) Parking Setbacks which was seconded by Michael Simoneau.

Yeas: Breault, Lovell, Simoneau, Roy, Guerra

Nays: None

Upon a unanimous vote, the variance was granted.

376 Harvard Street, R-3 Zoning District, Ward 7

Andrew Sullivan, Esq. (Agent) proposes to subdivide the subject property to create one new conforming buildable lot (Lot 25A) where the remainder of the parent parcel (Lot 25) will remain improved with an existing two family dwelling with 89.74' of lot frontage, but only maintains that lot width for 50' where 100' feet is required, as well as create a second parking space in the front yard setback and seeks a variance from sections **6.02** Minimum Lot Width and **10.09(B)1** Parking Setbacks at Lot 25, of the Zoning Ordinance of the City of Manchester, New Hampshire, as per documents submitted through April 29, 2020.

Attorney Andrew Sullivan said he was teleconferencing with Joseph Wichert. Attorney Sullivan requested that the plan at Exhibit H be brought up on the screen. He said this is a very unusual shaped lot kind of like an "L" where the existing building is on what will be Lot 25 remaining, you can see that it is tucked in there as it has been for probably 70 years plus. He said the east side setback, the rear setback and the front setback have all been there for years as well as in that particular section, the lack of 100 foot depth. On the other hand, the proposed new lot in the garage area which you see on the bottom left is going to be removed. That meets all the criteria for conforming lots. The shed that straddles the line between the new Lot 25A and Lot 25 will be removed.

Attorney Sullivan said they are proposing the conforming lot as shown which is kind of a backwards "L" and Lot 25 will stay with the house and two other lots. He said if you look at the packet you will see the aerial overlay of the area and if you look at the tax map, you can see that the existing Lot 25 as it stands, is one of the largest lots in the area and not to be able to use that large lot in the R-3 zone really creates the hardship.

Attorney Sullivan said the house was built over 70 years ago and many of the homes in the area were built 100 years ago. He said this one was built actually 100 years ago in 1920. The existing parking space within the front setback has been there for decades. He said he looked at the 2003 aerial shot and it was there then but just from the configuration, it appears it was there for decades.

Attorney Sullivan said this is not going to affect the essential character of the neighborhood. Most of the lots in the area have similar deficiencies in terms of setback requirements and many of them have similar front yard or side yard parking as well. He said they provided a Broker's opinion indicating that there will be no diminution of value in the surrounding area if this variance is granted.

Attorney Sullivan said because it is still, none the less, is a common ownership by granting this, we still have to address the 11.03 count because then they would have the common ownership abutting one non-conforming lot. By granting the variance, it becomes a buildable lot but they would also request relief under count 11.03. The ultimate relief that they are looking for would be that it lacks 50 feet of depth for Lot 25 and the parking spots are for 2 spaces in the front side yard. He said there is no front yard to park to and no back yard to park to. This would be the only place to park. They maintain that this is consistent

with the character of the neighborhood and does not diminish the value of surrounding lots. There is an intrinsic hardship we can see from the configuration on this plan and it is a reasonable use. There really is no fair and substantial reason why the particulars on the Ordinance of the 50 foot depth should be applicable here when the house can't be moved. With or without the separation of the two lots, you are still not going to get 100 foot back where the house is.

Chairman Breault turned the hearing over to the Board. There were no questions or comments from the Board and the Chairman turned the hearing over to the public. There was no correspondence from the public and the Chairman turned the hearing back over to the Board.

Michael Landry said he had a question for Attorney Sullivan. He asked what other lot was commonly owned with this. Attorney Sullivan said right now they are creating two lots. One will be conforming in all regard, Lot 25A and at Lot 25, there will still be those deficiencies which they are asking to be waived right now. He said he wanted to make sure that the relief is given if it is needed. Personally, he doesn't think it is needed but you never know when you go before the Board. Mr. Landry said staff would have probably called it out if they saw it but they don't see it that way so he would suggest that it is not required.

Chairman Breault said this is an older established neighborhood with many small lots and many multi-family buildings on even smaller lots. He said he thinks it is a reasonable use for the applicant to make better use of his property. Obviously it is a hardship because he has a significant piece of land and he really can't do anything without a variance because of the limitations of the boundaries.

Michael Simoneau said he agrees. He said this has been there since 1920 and he doesn't think it will affect the neighborhood because it would have affected the neighborhood before this. He thinks it meets the five criteria and is not contrary to public interest. It is in the spirit of the Ordinance and he does believe that substantial justice is done. He said he doesn't believe this is going to affect the surrounding properties. He said he is ok with this application.

Michael Simoneau made a motion to grant the following variance counts for case ZBA2020-026, 6.02 Minimum Lot Width and 10.09(B)1 Parking Setbacks at Lot 25 which was seconded by Jim Roy.

Yeas: Breault, Lovell, Simoneau, Roy, Guerra

Nays: None

Upon a unanimous vote, the variance was granted.

Michael Landry said the next two cases are abutting cases and one property will be

redeveloped entirely and the other is a house that has been sitting vacant for some time and they are going to fix up the parking area and use these two lots in conjunction. He said they have a plan that shows the two properties together. He said he would read both case ZBA2020-022 and case ZBA2020-023 into record to allow the applicant to speak to both properties but when it is time to take an action, he would remind the Board to take separate actions for each case as they are two separate cases.

4. **ZBA2020-022**
374 Merrimack Street, R-2 Zoning District, Ward 4

Roy Tilsley, Jr. Esq. (Agent) proposes to reconstruct a damaged non-conforming 6-family dwelling where the one year period allowed by Section 11.05(C)3(c) for reconstruction a damaged non-conforming structure has lapsed, where the proposed structure represents an expansion of the existing structure on a lot with lot area of 8,002 SF where 10,000 SF is required, with lot frontage and width of 60.13' where 100' is required, with side yard setbacks of 5' and 14.9' where 20' is required, with a front yard setback of 3.7' where 15' is required, with lot coverage of 80.3% where 75% is allowed, where the building height is 3 stories where 2.5 stories are allowed, with a floor area ratio of 0.94 where 0.5 is allowed, as well as create 6 parking spaces within 4' of the building or lot line, where no screening of parking areas is provided as required, with a drive aisle width of 13.5' where 22' is required and with a landscaped perimeter around the parking area less than the required 10' and seeks a variance from sections **11.05(C)3(c)** Reconstruction of Non-Conforming Structure, **6.01** Minimum Buildable Lot Area, **6.02** Minimum Lot Frontage and Width (2 counts), **6.03(A)** Front Yard Setback, **6.03(C)** Side Yard Setback (2 counts), **6.05** Height in Stories, **6.04** Lot Coverage, **6.06** Floor Area Ratio, **10.09(B)** Parking Setbacks, **10.07(K)4** Parking Screening, **10.06(A)** Parking Layout and **10.07(G)** Landscaping of the Zoning Ordinance of the City of Manchester, New Hampshire, as per documents submitted through April 30, 2020.

Vice Chairman Lovell said he does think that this meets the spirit of the Ordinance and he thinks the hardship is clear here with these properties just not having the room for the parking and maneuvering that is required of buildings of this size and he thinks it meets all five criteria.

Jose Lovell made a motion to grant the following variance counts for case ZBA2020-022, 11.05(C)3(c) Reconstruction of Non-Conforming Structure, 6.01 Minimum Buildable Lot Area, 6.02 Minimum Lot Frontage and Width (2 counts), 6.03(A) Front Yard Setback, 6.03(C) Side Yard Setback (2 counts), 6.05 Height in Stories, 6.04 Lot Coverage, 6.06 Floor Area Ratio, 10.09(B) Parking Setbacks, 10.07(K)4 Parking Screening, 10.06(A) Parking Layout and 10.07(G) Landscaping with the stipulation that the intent to record an easement for both commonly owned parcels located at 374 and 380 Merrimack Street is to be recorded at Hillsborough County Registry of Deeds to allow occupants of each property to pass and repass over both parcels for both access and parking prior to issuance of a building permit which was seconded by Jim Roy.

Yeas: Breault, Lovell, Simoneau, Roy, Guerra

Nays: None

Upon a unanimous vote, the variance was granted.

5. **ZBA2020-023**
380 Merrimack Street, R-2 Zoning District, Ward 4

Roy Tilsley, Jr. Esq. (Agent) proposes to expand the parking area and provide delineated parking spaces where the eastern drive aisle is 18.3' wide where 22' is required, where the landscape perimeter around the parking area is less than the required 10' and where three spaces are within 4' of the building as well as to construct a new set of stairs on the rear of the building with a side yard setback of 14' where 20' is required and seeks a variance from sections **10.06(A)** Parking Layout, **10.07(G)** Landscaping, **10.09(B)** Parking Setbacks and **6.03(C)** Side Yard Setback of the Zoning Ordinance of the City of Manchester, New Hampshire, as per documents submitted through April 30, 2020.

Attorney Roy Tilsley of Bernstein Shur said he was appearing on behalf of 380-382 Merrimack Street, LLC. He said their surveyor, Joe Wichert was also on the call and available to discuss the project. He said his client's Principals, Steven, Mark and Dennis are watching on TV and they are available by phone if they are needed as well. He said his clients own the properties at 374 and 380 Merrimack Street. Essentially, what they are seeking to do is rather simple. They are seeking to replace constructing a six-family building on 374 Merrimack Street to replace a five damaged six-family on the property. Rather than rebuild in the original footprint, they are proposing a slightly larger reconfigured building that will be up to code and will allow them to create some additional overall site improvements that they feel will better serve the neighborhood.

Attorney Tilsley requested the ZBA exhibit plan be put on the screen. He said that would probably be helpful as we go along. He said they are also seeking variances on the abutting lot that they own at 380 Merrimack Street to allow them to increase off street parking there. That will result in an increase in off street parking on the two lots from 17 spaces to 23 spaces to serve the twelve units located on the two lots. The properties are in the R-2 zone and 374 Merrimack Street is Map 127, Lot 31. It is an 8,000 square foot lot and has historically been a six-family that has suffered a fire loss in 2018. He said he did need to note that they have a pending Administrative Appeal on the decision by Mr. Landry not to extend a building permit to rebuild in the original footprint on that lot. He said they think what they are proposing today is a better option, not just for his client but for the City and the neighborhood. They asked to have this variance request heard first in hopes that they can get this approved and not need to fight about whether or not they are still able to rebuild the old building in the old footprint.

Attorney Tilsley said 380 Merrimack Street is also in the R-2 zone. It is 12,366 square feet and is Map 127, Lot 32 and it is an empty six unit multi-family dwelling. In addition to creating the parking spaces that they talked about and adding some green areas to the two

lots as part of this project, they will be rehabbing the six-family on 380 Merrimack Street as well as constructing the new six-family at 374 Merrimack Street. The end result will be that they will be restoring twelve affordable housing units to the City's housing stock while decreasing the demand for off street parking for these units.

Attorney Tilsley said by way of introduction, he should finally note that an affiliate of his clients also owns the property to the rear on 391-393 Manchester Street. He said you will see that at the top of the plan on the screen. That consists of two buildings, one a six unit multi-family and one a three unit multi-family. To the extent that they are asking for variances to setbacks and things like that, they have tried to as best they could squeeze things harder either between the two lots owned by his client or in the rear where they have the affiliate ownership as opposed to lots in which they have no connection.

Joseph Wichert said he is the surveyor that prepared the plan in front of the Board this evening. He said on the left hand side of the sheet is sort of an existing condition scenario where 374 Merrimack Street is the westerly lot, Lot 31 has the fire damaged building and then there was a paved parking area to the west of that. 380 Merrimack Street is the existing six-family and on the northeast corner of that lot where they are showing that concrete pad, he believes that used to be a garage at one time that had fallen down. The parking configuration was kind of haphazard and was more or less where they could put a vehicle. He said when they were approached about doing the survey and trying to get some permitting done, they went through it and tried to come up with something that was as complying on lots that predate the Ordinance as possible and try to make an improvement to the neighborhood.

Mr. Wichert said one of the things that they were really struggling to do was to try to get more off street parking. Obviously, if they could come up with more off street parking, that tends to hopefully reduce the turnover of the tenants because most tenants would have vehicles and hopefully they would be a little bit more stable. To that end, they went from an aggressive number of 17 allowed, which he is sure if he had to go in and fight for 17 he would be told it is actually lower. They went up to 23 proposed parking spaces and out of that 23 they have two handicap stalls with panels. What they tried to do is when they looked at it, they figured the simplest way to reduce redundancy, because right not there is a paved driveway on the west side of 374 Merrimack Street, a paved driveway between 374 Merrimack Street and 380 Merrimack Street and a paved driveway on the east side of 380 Merrimack Street. What they were trying to do is with the new building configuration, they pushed the new building further off of the street line and further off the westerly boundary which reduced the setback on the easterly boundary, which is the other property owned by the applicant, to 5 feet. That is one of the counts they are looking for. They also have a variance count for reduced front yard setback to 10 feet too, but that is actually an improvement over the existing condition and comparable to the building at 380 Merrimack Street.

Mr. Wichert said in regards to a parking layout, what they went with was an entry way off of the east of 380 Merrimack Street, one way in, a loop system and they have 12 parking

spaces on the right of 380 Merrimack Street. They have a row of 9 up against the building and 2 on the north side. That gives them their total of 23 spaces and out of that, a lot of the setbacks they are seeking relief on are under the Ordinance, if you have more than 5 spaces, you need a 10 foot landscape buffer. On the east side, they are proposing 6 ½ feet where 10 feet is required and on the north side, which is mainly abutting the area up against Lot 43, they are 6.9 feet where 10 feet is required but if you look at the preexisting condition, there was a concrete pad right up to that retaining wall. That is actually an improvement over the existing situation.

Mr. Wichert said because the applicant also owns the property out back, they tried to put a few more spaces up against the north side but during the zoning review, that became problematic. They toned it back to only keep the parking spaces on Lot 31 but by doing so, they had to tighten up the setbacks. If you look on the two northerly parking spots, where they have one that for all practical purposes is right on the line, two corners of it are within a tenth of a foot or an inch and a quarter of the lot line. They tried to increase the green area but unfortunately, to get the extra asphalt in the parking in there, they could not do that.

Mr. Wichert said what they tried to show on the lot coverage table is that although Lot 31 goes above the 75% required by Ordinance, if you looked at them in the aggregate, the total is a hair less than the 75% allowed. He said we have the two properties and they had a lot of back and forth with staff in the zoning review. They have tried to keep them as separate as possible. One of the changes that staff suggested that they went with is they originally had a parking stall straddling the lot line that seemed to be problematic. Where they had a parking stall straddling the lot line, right now they have the access panel for the handicap stall straddling the lot line. There are no split spaces and they have gone from an aggressive 17 spaces to 23 spaces which if you took the two buildings in aggregate, that would be a total of 12 spaces and they need 24 spaces in the R-2 district so they are fairly close to that and it certainly is a significant improvement. The hope is that Jonathan had an elevation view of the building and they are hoping that the Board looks at that favorably and say that that is more functional and more pleasing than the old building even prior to being damaged by the fire. From their point of view, as Attorney Tilsley mentioned, this building would be fully up to code from a life safety point of view, from functionality and from energy efficiency, he thinks it is a much better improvement.

Mr. Wichert said there are a lot of counts that came up during the zoning review but they did try to make everything flow together and try to make the redevelopment sort of more overall complying although because this is being done in 2020 under the current rules, they have a lot more violations that are listed in the zoning review.

Attorney Tilsley said the variances will not be contrary to the public interest and it will be consistent with the spirit of the Ordinance. The variances will not alter the essential character of the neighborhood. A six-family dwelling has existed on this site for many years and has been part of the neighborhood although the neighborhood is zoned R-2, it consists primarily of multi-family type uses. He said they think the proposal will serve the public health, safety and welfare by getting cars off of the street in providing nearly all of the

required parking for the 12 units on the two sites. In addition, again, they will be bringing back twelve units of need housing stock to this area.

Attorney Tilsley said the variances will result in substantial justice being done. The lot that his client, by strict enforcement, is not outweighed by any gain to the general public. The proposal is less impactful on the neighborhood than replacing the old building in the original footprint. They are adding enough parking to accommodate nearly all of what is required for the twelve units. They think the proposal is appropriate for the area and is an improvement over what has been there historically and will not harm abutters. Along those lines, the variances will not diminish surrounding property values.

Attorney Tilsley said the six-family use has existed for a long time and is well established and there are similar uses in the neighborhood. They are improving the parking situation in the neighborhood to the extent that they have encroachments into the buffers and things like that, they have tried to do their best to provide those between the lots that they own and or control as opposed to inflicting those on a third party neighborhood.

Attorney Tilsley said finally, regarding unnecessary hardship, there are a number of special conditions of the property. One is that as a result of the fire loss, a like kind replacement of the prior dwelling is inferior from a Planning perspective to the proposed dwelling. In this case, the subject properties are larger than all but one of the other properties located on Merrimack Street between Lincoln Street and Wilson Street. The common ownership of the properties allows them to use them in a cohesive fashion and limit setback issues on third party properties and try to consolidate those issues to their own properties. There is no fair and substantial relationship between the requirements of the zoning Ordinance and its application to the properties. Again, they are improving over the historical six-family dwelling that has been there for many, many years on site. They are restoring needed affordable housing stock, moving parking off of the street and providing some additional green space over what has been there historically. The proposed use is reasonable. Residential use is allowed and a multi-family has existed on this site and in this neighborhood for many years.

Chairman Breault turned the hearing over to the Board.

Guy Guerra said he had two questions. One is why don't they just join the lot? Attorney Tilsley said they haven't proposed that and no matter how they slice it, it involves some type of relief. If you join the lots, now you have the issue that you can only have one building on the lot and they need some kind of relief from that requirement so this is what they came up with. They have been in separate ownership historically and they don't need to be one lot. They can take advantage of the common ownership in terms of the parking situation but they didn't see the need to put them into one ownership for purposes of this application. Mr. Guerra said he doesn't know that he agrees with that but that is ok. He said his second question is will the properties behind have access to parking on this setup because it looks like they have nine units back there with four parking spaces. Attorney Tilsley said they will not have access. There is an existing retaining wall so they cannot drive between the

properties and you can see the green space between the two properties so there is no way to get from one to the other. He said as Joe Wichert mentioned, one of the things it started with was the possibility of maybe some kind of cut through or drive through so they can get some more spaces and allow them to participate but it didn't work well when they got to zoning review so they came back with this plan.

Attorney Tilsley said one of the things he gets when he looks at this and he can understand the concern if they are not consolidated, what happens with the traffic flow and the 23 spaces if the properties are divided. He said they can't grant an easement to themselves, so they can't just give the Board an easement document. What he has done in the past in similar situations and he needs to think this through a bit, but what he has done is record a document that is an intent to create an easement which basically says we own both lots and we are going to allow this to happen in the event that title is ever severed. He said they intend to create an easement at that time for the benefit of each lot to use the properties and the parking in the right of ways or the traffic flow as approved. What that does is provides the Board with some assurance once he records that and if they ever do separate title, there will be a document on record at the registry that tells the new owner that they need to get this easement at the closing so they can have traffic flow that has been approved as part of these two particular projects. Mr. Guerra said he understood that.

Alderman Roy said he had a couple of comments. He addressed Joseph Wichert and said he is absolutely right that that cement concrete pad in the back was several garages back in the day. He said he knew that because he grew up next door at 368 Merrimack Street. He said he thinks the applicant is improving the neighborhood by getting some more off street parking there. That is a tight neighborhood as well and there are other three story buildings in that area. He said looking at this plan, they are essentially making a compound here with the two buildings here being in common ownership. He said he sees the traffic flow around there and he was concerned and he was going to ask about a voluntary merger. Apparently, the applicant is saying they can't do that. He said he needs some help here because he is trying to figure out how we go through this and put some type of requirement in here so that you don't have difficulties in the future.

Alderman Roy addressed Attorney Tilsley and asked if he was saying he can't do a voluntary merger because he couldn't have more than one building on the site. Attorney Tilsley said it would create a new set of zoning problems that they would have to wrestle with. Again, he thinks the proposal, if they have a condition that required them to record an intent to create an easement, that solves the problem. There is a document at the registry that says when either one of these lots are sold, they intend and will create an easement so that each of the now two different property owners can have the benefit of what is on the plan in terms of parking and traffic flow. In recording that document, they put the new buyer whenever he or she comes along on notice that they need to get the easement and that way it happens when they create it. Normally, they would create it now but they can't give an easement to themselves. That is the problem. If he records a document that says they have an obligation to create it, once there is separate ownership, he thinks that provides future owners and the City with the protection that the easement will be created when ownership is severed.

Alderman Roy said Attorney Tilsley just said that if they were going to voluntarily merge these lots then there would have been other issues that they would have to address at the Zoning Board. He asked what the reason was for not doing that. Joseph Wichert said he could answer this question. He said by the Ordinance, you can't have two primary structures on one lot. At the end of the day, if you take the two six-family dwellings and put them on one lot, you have created a planned development. He said you could argue yes, no or indifferent but that is one of the concerns they had. He said the second concern is if you look at the traffic pattern and flow, there is a shared access which to him is really the only thing that comes into play. Right now, it is set up that you would go in on the east side, you would head south of the parallel to the buildings and you exit on the west side. But, if you look at the existing driveway configuration, the driveway that they have that is west of 374 Merrimack Street is for all practical purposes the same size he is showing now is within a foot of the same size of what is there now, so that doesn't change. The current layout is they went in and they just parked so the vehicles were going east west or heading in and some east west and some north south. What would happen, worst case scenario is they separated and somebody decided to be whatever, then you would come in and in theory you could just park and you would go in and out one way which is sort of what they do now.

Mr. Wichert said on the easterly 380 Merrimack Street side, that access aisle is actually wider than what currently exists if you allow the 18½ feet for a vehicle which the City requires up front. When you look at 380 Merrimack Street, there is a parking field right as you come in where that dashed line is. That is the current parking. There are about four or five cars that can fit in there and then you have a paved panel that sat in front of the garage that people are sort of parking either on the concrete pad or up against. The way they tried to do it was if you had to for some reason break this, the only difference would be is that somebody would end up having to go in and out the same entranceway. As Attorney Tilsley mentioned, they are hoping that if they do a generic right to pass and re-pass, if this gets eliminated and therefore there is always for traffic purposes. If you look in the inner City, there are a lot of lots that you have to go through one lot to get to your lot for parking purposes. He said he doesn't necessarily think it is odd or more unique because they are proposing it now, but he doesn't think that it is certainly something that doesn't exist if you look at a lot of that block.

Guy Guerra said he appreciated what Joe Wichert is saying but he still has a hard time with not joining the lots. He said Joe is mentioning that we will be reusing the driveway to the west to get back into the way they do it now. What you end up with is six parking spaces for six units as opposed to the six units on the other side ends up with 17 parking spaces. As far as two buildings on one lot by merging the lot, he still thinks they are asking for a lot already and to throw two buildings on one lot is just another thing they have to add to a fairly significant list of variances that they are looking for. He said he didn't know if it would have been that out of the way to do it.

Joseph Wichert said currently, depending on what the zoning review for 374 Merrimack Street was, there were only either six or seven parking spots. He said he could come up with

seven, but usually when he comes up with seven, by the time he is done zoning review, he is down to five or six. He said they looked at it as it is a wash that the number of parking spaces for 374 Merrimack Street is no less than what currently exists now and it has the ability of a fully complying handicap stall with access panel. They looked at it as even if you looked at them individually, 34 Merrimack Street in addition to being a new building fully to code, is similar to what it has. He said he doesn't disagree that you could look at it and say if they don't tie it together that one side is going to get 17 spaces and one side is going to get 6 spaces. The reality is that that lot is a lot larger than this lot.

Mr. Wichert said in addition to the financial ramifications of having to merge the two properties, in this perfect world which is less and less anymore, they are only looking at an 1,800 square foot increase in lot coverage. In a perfect world, they are not going to go the Planning Board for a site plan and have to go through that expense, process and time. If they go forward and were to merge them, then they clearly are and that opens up another whole can of worms relative to landscaping, lighting and all these other things. He is not saying that is not important but the applicant has gone through a significant expense and commitment to try to make this better and they would prefer to have the ability to make it better voluntary as opposed to being told that this is how they have to do it.

Attorney Tilsley said from where he sits, the only issue he would see behind this request is because there is going to be shared traffic and shared parking and they can fully address that with a notice of intent to record an easement so if that happens. If and when title was ever severed, you have that assurance that when the easement can be created it will be created. It will be a record at the registry and he is happy to work with the City Attorney's Office to make that happen. He said he thinks that provides the Board with the assurance that they are not going to get into a situation where this thing blows up and now you have 6 parking spaces on the new building and 17 parking spaces on the old building and there is no longer any right to distribute those as they are proposing today.

Guy Guerra said he gets it and he understands why the applicant is doing it. He said he just looks at the situation in which you and I both know that neighbors don't always get along. You can have the intent of the easement and that is a wonderful thing, but he will say that they will eliminate more problems by having single ownership of both properties with a merge than you will with the possibility of two separate properties and hope that the two landlords get along.

Joseph Wichert said if he could, he would tell Mr. Guerra that he thinks he has been on the Board when they brought projects in to subdivide two buildings that were on one lot on to individual lots. One of the reasons is it is much more difficult to sell two on one than it is just to sell individual lots. There is certainly from their point of view, he does more work to take two non-complying lots and put them on two less complying lots than he does the other way where they put them together. He thinks that is a function of it narrows the market up as to who it can get sold to and things like that.

Michael Landry said he missed some of what was said because he was listening to a voice mail from an abutter but he wanted to comment regarding relief from this Board to have a

planned development which is really not relief, it would be a planned development review by the Planning Board. They are going to the Planning Board for site plan anyway so the relief for the Planned Development wouldn't be provided by this Board.

Vice Chairman Lovell said Attorney Tilsley was talking about recording the intent for an easement and he asked him what that easement would cover. He asked if it would it cover the drive and all the parking or something different? Attorney Tilsley said he envisions that it would cover the circular driveway pattern that the plan depicts as well as the parking and the fact that the shared parking between the two units. Perhaps they would assign a certain number of spaces on the existing three family lot to the new three-family lot and then have cross easements when the time comes to allow the "U" shaped traffic flow to continue. He said they would put it all in the notice of intent to declare it, they would record it and if they ever make the economic decision to convey out one of the lots, that notice triggers the granting of the actual easement at the closing. Vice Chairman Lovell said maybe Attorney Tilsley hasn't thought about it this far or maybe he misunderstood Attorney Tilsley, but he is saying the parking spaces might be divided up between two properties and not necessarily that both properties have access to all spaces. Attorney Tilsley said he didn't know the owner's intent in terms of whether they are going to assign certain spaces to certain units or just have them on a first come first serve basis. He said again, with common ownership, it is less of a concern. He said he could envision if he was negotiating on one side or the other if he needed spaces on the existing six-family, he would probably want some specification of what he was getting as opposed to his people could use them on a first come, first serve basis.

Chairman Breault turned the hearing over to the public and asked if there was any correspondence either in favor or in opposition to this application.

Michael Landry said he just listened to a voice mail in real time. This gentleman was listening to the hearing and his name is Mr. Wheeler from 401 Manchester Street and his question had to do with preventing headlights from going into the properties in the rear and he also understands that it might not be the topic for the Zoning Board but he did ask the question and it is probably worth addressing. He said as far as reducing glare from headlights to abutting properties is his interest.

Joseph Wichert said it looks like Mr. Wheeler is talking about Lot 42 which is the northeast corner of tax map 32 which is 401 Manchester Street. He said if you look at the precondition and the post condition, on the precondition, some of the old aerials he saw, people were actually parking head in on that concrete pad where the old garage was. To him, there is a retaining wall there and he can't quite remember how tall it is. He wants to say it is somewhere between two or three feet. Maybe it would block some of the headlights or maybe the headlights are slightly above it. He said they turned the parking spaces so they are heading east west. There is a fence there and if you look at the bottom of that easterly line on the post condition, they are proposing to continue it with a four foot white vinyl fence. He said he thinks east west that that is certainly going to prevent the headlights from sweeping the neighbor at 384 Merrimack Street. He thinks the fence will handle that. To

him, the headlights would be coming up against Lot 43 because that is where the aisle in is going to come and that is where the retaining wall is. The headlights as you are turning in to the southerly bank of parking spots are actually going to be going up against the applicant's building. The same as the two on the north side. He said Mr. Landry said he believes they are going to need site plan approval. They were hoping not but he guesses that is a battle for another day. He said they could kind of go from there and see what the Board says.

Chairman Breault turned the hearing back over to the Board.

Chairman Breault said it appears that on the backside of Lot 43 on Manchester Street, there is a fence there now. He asked Mr. Wichert how high he would say that is. Mr. Wichert said he thinks it is four feet. He said it is a stockade fence that sits on top of a retaining wall. He said if you look on the plan just underneath where it says 58.13 feet, there is that line with the squares in it. That is our line depiction for a stockade fence. That goes all the way to the lot line between Lots 42 and 43 which should shield a lot of it. He is not necessarily sure what the height or the condition of that but certainly they could entertain that if they could look at the condition of that. He said he believes a lot of it is blocked and like he said, what they are trying to do is, cars will no longer be parking north south so there won't be somebody kind of pulling in and just idling a car there. They are going to be coming in and turning left to go on the aisle or the parking lot to the right. Chairman Breault said when they turn to the right is when he can see the headlights flashing over to Lot 42. He said Mr. Wichert is saying the applicants are friends with people at the two three-story buildings behind, but what is shielding them from those two spots that are directing light at the building on the left. He said he can see that impact on that house as well. He said he thinks they may consider maybe fencing in that corner and some of that funky property line at those two individual parking spaces facing north.

Chairman Breault said one other question he had was pertaining to the construction and some of the details. He asked if the concrete pad was being removed. Joseph Wichert said it was. Chairman Breault said it was noted on both plans. Mr. Wichert said the proposal is to remove the concrete pad and then it will be asphalt. Chairman Breault said he saw on the rendering by Alan Yeaton, Amoskeag Architecture that this new building will be sprinklered with a full system. He said he assumes that in their attempt to rehab the other existing structure, it will all be brought up to code with sprinkler systems as well. Joseph Wichert said the vertical construction part is not his strength. He said he is sure they are going to have to pull whatever codes are there. He said he would defer this question either to Mr. Landry or Attorney Tilsley. He said he is not quite sure what the proposal was for this and he didn't know if they were looking at if it was a significant enough rehab or just more of a clean. Attorney Tilsley said he had already checked with the applicant by text and as soon as he had a response, he would share it. He said neither he nor Mr. Wichert should guess on this one.

Chairman Breault said he didn't have any serious reservations about this development other than the lights that one of the abutters brought up. He said he thinks it cleans up an issue with a property that has been destroyed beyond salvation and this really does it justice. He

said he thinks any motion that is made needs to include that the notice of intent to create an easement is recorded at the registry and recorded against both properties so that whenever these two properties are sold independently that there is some vehicle for people to have access to all this parking.

Michael Landry said he had a voice mail in real time from Mr. Wheeler again. He said there really was no wall on that northeast corner that would make any difference on the lights. He said on his lot he can see clearly into 384 Merrimack Street. Attorney Tilsley said they are happy to have a fence along that north line to address that concern. That is not an issue to them.

Alderman Roy said he had a question for Joseph Wichert. He said his audio was cutting in and out but he heard something about them maybe having to go for a site plan review and asked if he heard that correctly. Joseph Wichert said not from him. He said when he reviewed section 4 of the site plan regulations, he was looking at it as they have less than the square footage of building and whatever. He said when Michael Landry spoke, he mentioned they were. He said they knew it was a possibility, so certainly, once they get to this point, they will talk to Planning staff. Alderman Roy asked Joseph Wichert if they put in a motion that this is going to require an intent for an easement on record and they had to go for a site plan review, is there any possibility that they may have to voluntarily merge it. He said he asks that because he doesn't think it would be fair for the applicant to have to come back to the Board again for other issues that are triggered by a voluntary merger and have to pay again. That is his concern. He asked how the Board would word this so they don't get stuck in the middle here. Mr. Wichert said his answer is if they say they don't want to merge it, he doesn't know if that would be voluntary. He said whether or not they would have to do it as some kind of function of approval, he doesn't think he has ever had that occur but there is always a first time. He said he thinks that when Michael Landry was on the line, the planned development itself he doesn't think creates a zoning problem. It is the merger of the two buildings would create the need for a planned development review by the Planning Board. It is not his determination but he took that to mean that if the property had to be merged, it would necessitate an additional Planning Board action and not necessarily an additional Zoning Board action.

Vice Chairman Lovell said this does seem to be a kind of creative solution to an issue and the plan seems to be a big improvement on what's there. He said he does think that headlights are certainly an issue that needs to be addressed. He thinks the addition of a fence is of course a perfectly reasonable way to address that and he is for the fence, but he also wants to mention that it seems like even without the fence, he thinks this is an improvement on the way headlights were going in the first place. He said regarding the site plan review with the Planning Board, this kind of development doesn't seem to necessitate something like that. That seems to be over the top and some unreasonable hoops to jump through for what we are looking at here. He said he thinks this is a good creative solution. With the addition of the intent for the easement, he thinks it makes sense.

Guy Guerra asked if the easement was going to include the ability to share parking spaces and not just simply a drive by. Vice Chairman Lovell said it is his interpretation of this

discussion that Attorney Tilsley presented that the parking spaces would be part of the easement in one way or another, split between the two buildings. Chairman Breault said that is how he understood it also.

Michael Simoneau made a motion to grant the following variance counts for case ZBA2020-023, 10.06(A) Parking Layout, 10.07(G) Landscaping, 10.09(B) Parking Setbacks and 6.03(C) Side Yard Setback with the stipulation that the intent to record an easement for both commonly owned parcels located at 374 and 380 Merrimack Street is to be recorded at Hillsborough County Registry of Deeds to allow occupants of each property to pass and repass over both parcels for both access and parking prior to issuance of a building permit which was seconded by Jim Roy.

Yeas: Breault, Lovell, Simoneau, Roy, Guerra

Nays: None

Upon a unanimous vote, the variance was granted.

6. **ZBA2020-030**
445 Westwood Drive, R-1B Zoning District, Ward 8

Glen Ruggiero proposes to maintain a second front yard parking space within the front yard setback and within 4' of the front lot line as well as maintain a shed in the rear yard within 4' of the side and rear lot lines and seeks a variance from sections **10.09(B)** Parking Setbacks and **8.29(A)3** Accessory Structures and uses of the Zoning Ordinance of the City of Manchester, New Hampshire, as per documents submitted through May 5, 2020.

Michael Landry said as previously stated, this case is postponed to June 11, 2020 to a virtual hearing in the same platform at 6:00 pm.

7. **ZBA2020-031**
506 Bartlett Street, R-2 Zoning District, Ward 11

Brian Cantella, (Agent) proposes to convert a single-family to a two-family dwelling on a lot with a 1,707 SF lot area where 6,500 SF is required and with lot frontage and width of 44.67' where 75' is required and seeks a variance from sections **6.01** Minimum Buildable Lot Area and **6.02** Minimum Lot Frontage and Width (2 counts) of the Zoning Ordinance of the City of Manchester, New Hampshire, as per documents submitted through May 6, 2020.

Rachel Hartford said she is a 28 year old new home owner of 506 Bartlett Street. She said she bought it as a foreclosure and she closed on the house on April 10th. She said bought the house with New Hampshire Housing Grant and it is her first home. She said she also did a 203K rehab loan to fix it up and make it a better home. Through her RMS [Residential Mortgage Services] prior to closing, she was required to read and test on a landlord course and she emailed the Board the certificate passing that course. She said honestly, she cannot

afford the house without the additional income of the second unit. She said she is hoping to fix it up as a two-family. She said at this time she would like to turn it over to her general contractor, Brian Cantella. He is from Hannah Environmental and he can provide the Board some details of the property and answer any questions the Board may have.

Brian Cantella said he is with Hannah Environmental and he is the General Contractor on this property. He said it says that they are converting a single family back into a two family but this property was designed and built as a two family back in 1910. The previous owner used it as a single family but it was taxed, appraised and assessed as a two-family. All they want to do is turn it back to its original use. They are not expanding on the building at all. All they are basically doing is putting a kitchen back on the second floor. He said as Rachel said, she cannot afford the property without the owner occupied multi-family that she thought she was buying when she bought it. Many properties on this street, including the three abutting properties, don't meet the criteria for lot area square footage or road frontage. They are just hoping for relief from those two things so they can make this property better for the community and better for the applicant.

Chairman Breault turned the hearing over to the Board.

Alderman Roy said he had a question for Michael Landry. He said it was stated that this has been zoned, taxed and appraised as a two family. He asked if they have been paying taxes as a two-family all along. Michael Landry said he really didn't have any way of confirming that but he would take their word for it as he thinks it shows up as a two-family on the tax card. He asked Jonathan Golden if he could toggle through the pages in the packet and go to the property card. Vice Chairman Lovell said the page Mr. Golden was recently on said it was a two-family. He said he is looking at the City's GIS right now and it says two-family. Mr. Landry said if you go to the building permit records you can on that card that in 1963 there was a building permit pulled and issued to convert a two-family to a one-family. That is the basis of the staff's decision. He said he feels for Rachel and he believes that she believed that it was a two-family and he almost doesn't doubt that it was used recently as a two-family without our knowledge. He said there are no records for COC inspections and as a result, here we are. Michael Simoneau said the tax card does say this is a two-family but he does see that it was converted back to a single unit.

Chairman Breault said he thinks it is pretty evident that this is constructed as a two-family. There are many buildings in that neighborhood that are similar situations, multi-families and limited space and so on. He doesn't see any problems with this. He doesn't think it is contrary to public interest and the spirit of the Ordinance is observed. He doesn't think it is going to diminish anybody's property values and he sees the hardship that she encountered that there was all kinds of misinformation on whether it is accurate or not. He said he finds it difficult to say that she can't have this.

Alderman Roy he believes this property has been taxed all along as a two-family just by the assessment of it in that area. It is a tight neighborhood and he thinks this is going to be a huge improvement. As a matter of fact, when he went by, he believes Brian Cantella has

done some extensive work on it already such as the windows. Mr. Cantrell said yes, they did the roof because it was leaking pretty badly and they got the siding and deck permits already so they are starting to do that. Obviously, they can't do anything in the interior. Alderman Roy said it looks like they are doing some good work there. He said he agrees with Chairman Breault that it is not going to be contrary to public interest. It is actually going to improve the surrounding property values because it is going to look a whole lot better than it did.

Michael Landry said he had a quick question. He said he believes that Mr. Cantella was discussing straightening out the stairway to the second floor with the Building Inspector, Don Veilleux and asked him if that was the plan. Mr. Cantella said that is the plan and he wrote that new floor plan and submitted it before he and Don spoke. He said that is going straight into the bedroom there and that will be the second means of egress. Mr. Landry said he thinks that is a much safer alternative.

Chairman Breault asked if there was any correspondence either in favor of or in opposition to this application or if there were any general Comments. There was no correspondence on this application.

Jim Roy made a motion to grant the following variance counts for case ZBA2020-031, 6.01 Minimum Buildable Lot Area and 6.02 Minimum Lot Frontage and Width (2 counts) which was seconded by Michael Simoneau.

Yeas: Breault, Lovell, Simoneau, Roy, Guerra

Nays: None

Upon a unanimous vote, the variance was granted.

8. **ZBA2020-021**
154 Wells Street, R-1A Zoning District, Ward 6

Michael Poullos proposes to construct a 2-story 24' x 34' attached garage on a corner lot with living space above, having side yard setbacks of 11' and 18' where 20' each is required and seeks a variance from section **6.03** Side Yard Setback (2 counts), of the Zoning Ordinance of the City of Manchester, New Hampshire, as per documents submitted through May 8, 2020.

Michael Poullos said he is a lifelong resident of the neighborhood and in the course of his life he has lived in three houses, all of which are abutting properties. He said this is a family home and he will be the fourth generation to own it and the goal is due to the housing issues in the City, he would be putting on this two stall garage with additional living space to accommodate two family members for the foreseeable future. This would allow him to do it. Chairman Breault turned the hearing over to the Board.

Chairman Breault asked Mr. Poulios if this was by any chance a complete second dwelling or strictly living quarters like bedrooms and bathrooms. Mr. Poulios said it would be just additional living space. The goal is to make the family comfortable but not too comfortable that they don't move out. Chairman Breault said then it is not an in-law apartment or a complete second dwelling, it is limited to living space without a kitchen. Mr. Poulios said that was correct.

Chairman Breault turned the hearing over to the public and asked if there was any correspondence either in favor of or in opposition to this application or any general comments.

Mr. Poulios said he did submit some letters from the abutters.

Michael Landry said as Mr. Poulios said, he did submit eight letters from abutters and they all read pretty much the same thing so he will read it once and then read the signers of each letter separately.

To Whom It May Concern,

I have reviewed the plan regarding the above proposal. I have no objections to the request.

Regards,

***Surmi Lama, 125 Erskine Avenue
Rodney Simoneau, 146 Wells Street
Alan Poulios, 149 Erskine Avenue
Amy Florek Johnson
125 Stetson Street
Kevin McDonough, 145 Wells Street
John Gramatikis, 110 Stetson Street
Genevieve McGuigan, 102 Statson Street
Lawrence Skillings, 126 Stetson Street***

Mr. Landry said that is all he has on this application.

Chairman Breault closed the public hearing and turned the hearing back over to the Board.

Alderman Hirschmann asked if this would be characterized as an accessory dwelling unit. Chairman Breault said an accessory dwelling unit would typically have a kitchen in it and if he is representing that there will be no kitchen, then it is not a complete accessory dwelling unit. Mr. Landry said that was correct. Alderman Hirschmann said his final question is then there is no plumbing and no sewage? Chairman Breault said there might be bedrooms and a bathroom, it doesn't say there is no plumbing. Mr. Poulios said there would be a bathroom so there is plumbing. Chairman Breault said Mr. Poulios would be installing a bathroom but

he wouldn't be putting in a kitchen. Alderman Hirschmann asked if it would get a separate water meter and sewer connection. Chairman Breault said he would think Mr. Poulios would tie into his existing system.

Chairman Breault said going back to the plan, the garage is away from the corner so even though this is a corner lot, it really doesn't affect anything on that corner. It is off the existing driveway which is going to serve well for his garage. He said all of his abutters, even the abutter directly adjacent to his garage is in agreement with it. He said he thinks this is not going to diminish any property values and it is a good place to expand to for a garage. Moving it to another spot on his property would create a hardship. He thinks it would be in the spirit of the Ordinance and he doesn't think it is contrary to public interest.

Michael Simoneau said he agreed with Chairman Breault that this case does meet the five criteria that he just listed.

Michael Simoneau made a motion to grant the following variance counts for case ZBA2020-021, 6.03 Side Yard Setback (2 counts) which was seconded by Guy Guerra.

Yeas: Breault, Lovell, Simoneau, Roy, Guerra

Nays: None

Upon a unanimous vote, the variance was granted.

9. **ZBA2020-029**
644 Grove Street, R-2 Zoning District, Ward 5

Joseph Wichert (Agent), proposes to subdivide the subject parcel to create one new buildable lot, where proposed Lot 38A which will have lot area of 5,018 SF where 6,500 SF is required and lot frontage and width of 50.06' where 75' is required and proposed Lot 38 will remain improved with a single family dwelling with lot area of 5, 017 SF where 6,500 SF is required, with lot frontage and width of 50.06' where 75' is required, with a side yard setback of 4.9' where 10' is required, as well as maintain an above ground pool in the rear yard with a 2' setback from the side lot line where 4' is required and seeks a variance from sections **6.01** Minimum Buildable Lot Area and **6.02** Minimum Lot Frontage and Width (2 counts) at proposed Lot 38A and **6.01** Minimum Buildable Lot Area, **6.02** Minimum Lot Frontage and Width (2 counts), **6.03(C)** Side Yard Setback and **8.29(A)3** Accessory Structures and Uses at proposed Lot 38, of the Zoning Ordinance of the City of Manchester, New Hampshire, as per documents submitted through May 13, 2020.

Joseph Wichert said he was here this evening for RHK Street Bell Properties, LLC. He said the LLC owns lot 38 on Tax Map 126 and currently there is a single family residence on the property that is 644 Grove Street. Mr. Wichert said as you look at the exhibit on the screen, you can see that it is a double lot with two 50'x100' lots, and the house and the majority of the improvements are on the easterly lot which is what they have identified as Lot 38. There

is an existing one car garage and driveway on what they have shown as Lot 38A. He said they are proposing should the variance be approved and the Planning Board approves the subdivision, that that would be removed as part of this application. He said in their initial proposal, they attempted to salvage and reuse it but it didn't quite work out the way they had hoped.

Mr. Wichert said as he mentioned, it is 100'x100' lot. Currently it is a hair larger just because of the way they measured it. Each lot would have 50.06' of frontage and either 5,017 or 5,018 SF of area. The property is zoned R-2 and in the R-2 district by Ordinance, you need 75 feet of frontage, 100 feet of lot depth but you only need 6,500 SF or area. He said they could have gone forward with a conditional use permit in front of the Planning Board which specifies that you could build a single family dwelling on a 50'x100' lot in the R-2 district but, they would have had to come before the Zoning Board of Adjustment anyhow for the matter of the existing building is not on a complying lot and the proposal calls for reduced side yard setbacks to the midline. If you look in the middle of the page on the screen, from the actual corner of what is a mudroom, they have a 6.8' dimension and then there are some stairs that sort of wrap around and at the widest point they are approximately 4.9' off the proposed lot line. In addition to the frontage and area counts that were called out on the notice, they also have that count for the reduced side yard.

Mr. Wichert said they did not call for reconfiguring the stairways but certainly they could. If you look at it, the stairs not only go down to the street, they also kind of go out like an "L" shaped set of stairs. He said they could reconfigure those but he cannot get any better than the 6.9' that is shown off the building. On that level, they were still going to have to come to the ZBA.

Mr. Wichert said one of the other items when they looked at this is the property is zoned R-2 and over the years, most times putting a duplex on a 50'x100' lot can be a little bit challenging with the parking requirements. The two exceptions are generally if you have access to an alley or if you are on a corner lot. With this property, the parking comes off of Green Street South Back. What they have shown is a 28'x44' duplex and they've got four car parking that comes off of the alley. There would be no additional curb cuts onto Grove Street. Mr. Wichert asked Jonathan Golden to post the plans for the proposed building on the screen. He said if you look at the front of that building, what they tried to do is, instead of having a side by side duplex, at the entrance, there is only going to be one door facing the street. You are not going to see the parking from Grove Street. The parking would only be visible from the alley. He said they looked at this as in this day and age they could get an additional unit of housing in an area that allows for two-family dwellings and it would sort of be consistent with the neighborhood.

Mr. Wichert said there are other two-family dwellings in the area. The lot to the west of them is a two-family, Lot 41 on the tax map which is the southwest corner of Green Street and Hall Street is a two-family and diagonal to that on the side of Green Street and Hall Street there is a two-family. They looked at it and they were just trying to balance this out and this lot could sustain a two-family dwelling that sort of fits in with the character of the

neighborhood in an area where two-family dwellings are allowed by right. They are smaller than what the current Ordinance is but they don't believe that it is necessarily going to significantly change or alter the character of the neighborhood. They looked at the values of the surrounding neighborhood and typically, duplexes, depending on the amount of amenities runs anywhere from \$230,000.00 to \$280,000.00. He thinks that value is very comparable to the neighborhood. As he mentioned, they are not going to have any additional curb cuts onto Grove Street. There is going to be an additional building and the use of the alleyway but if you are coming out of the alleyway and you are going toward Hall Street, it is a relatively short distance.

Mr. Wichert said they tried to account for the variance criteria in their exhibit so he doesn't necessarily want to go through everything but if anyone had any questions, he would be more than happy to try to answer them.

Chairman Breault turned the hearing over to the Board.

Anne Ketterer said this is in the R-2 zone and of course, that is by right but this doesn't fit in R-2 and you don't fit a multi-family by right and that is why you are here. She asked if in the neighborhood, are there any mid-block multi-family buildings or are they all on the corner. Mr. Wichert said the abutter to the west of them, where they have Lot 36 owned by WGAC, LLC, that is a two-family dwelling.

Chairman Breault said he happened to reside in this for a brief period of time many years ago. He said if you go one block east of there at the corner of Grove Street and Belmont Street there is a significant six or nine-family building and just below that is another one. There are some multi-families in the neighborhood but there also is a scattering of many single-families. Joseph Wichert said if you go to the Wilson Street side, there are some more. He said we are getting a little further away from the property so they didn't necessarily bring those in to it.

Chairman Breault turned the hearing over to the public and asked if there was any correspondence either in favor of or in opposition to this application or any general comments.

Michael Landry said he had a letter from an abutter. He read the letter into record.

I reside in the immediate abutting property:

Lot 40

***Patricia Somers at
346 Hall Street***

I am opposing the request to create one new buildable lot and pool variance.

The property does not meet the outlined requirement for lot size and frontage of the zoning district. Lot 38A will have lot area of 5,018 square feet where 6,500 square feet is

required, lot frontage and width of 50.06 feet where 75 feet is required. Lot 38 will also not meet the zoning Ordinance requirements for area of 5,017 square feet where 6,500 square feet is required, lot frontage and width of 50.06' where 75' is required and side yard setbacks of 4.9' where 10' is required. Both lots are well below the lot requirements which will create overcrowding and lower property values.

This variance request cannot grant a special privilege to this land.

The above ground pool needs to be removed or relocated. The previous property owners did not pursue the proper permit to construct it. It was built illegally and not in accordance with zoning district law. It has a two foot setback from the side lot line where four feet is required in the R-2 zoning invading my property. It is almost on my property line and dangerous to my grandchildren and other neighborhood children. The fencing is not adequate and can be easily accessible for possible accidental drowning.

Please do not grant special privilege to this property. It is imperative to the integrity and value of the neighborhood.

Your review and consideration of this appeal is greatly appreciated. After you have considered the facts, I believe you will agree with my conclusion.

*Thank You,
Patricia Somers*

Michael Landry said that was all of the correspondence he had.

Chairman Breault closed the public hearing and turned the hearing back over to the Board. He asked Joseph Wichert if he wished to answer some of the concerns of the abutter.

Joseph Wichert said Ms. Somers mentioned quite a few items and he tried to write down some of them. He said basically, in the R-2 district, they could create a 50'x100' lot through a conditional use permit. He said he believes that is something that happens on a very regular basis and just the way the Ordinance is interpreted is that his understanding is the whole conditional use thing was put into place because the base lot size in Manchester used to be 5,000 square feet. If Mr. Smith bought three 50'x100' lots because he had two kids and he wanted each kid to live on either side of him, that was always the intent. Over the course of the years when that changed, now they were merged or involuntary merged and the conditional use permit process was put in place to allow people to kind of go back to where it was. He said they were going to have to go anyhow because they are here because the existing house is not going to be 6,500 square feet. If you look on the south side of this street, almost all of those lots are 50'x100' lots. He said he doesn't think creating a 50'x100' lot is going to change the character of this neighborhood at all. To him, the only item they are looking at from the Zoning Board is, is this lot suitable for a two-family dwelling. Because they are not having to squeeze a driveway between the building and the lot line and have four parking spaces out back which sort of really reduces the amount of green area and

because they have direct access to this alley, they can actually build a two-family dwelling that from the street side will look like a single family dwelling. They can add the four complying parking spots in the alley and still have a fairly good sized yard. From their point of view, that is the main focus of their application and what they are asking for the relief on.

Mr. Wichert said there was discussion about the pool. He said to be honest, he doesn't even know if they addressed the pool in the application because he is not even sure they knew that it was built without permits. If you have driven by the area, the entire yard is fenced in. It looks to be a 3 foot fence but if it certainly is an issue, he is sure the applicant wouldn't initially want to, but if they had to take the pool down, then so be it. He guesses they would. He said at the end of the day, he thinks this property is unique because it does have the access to the alley and whether they did a single family or two-family dwelling, he doesn't think creating a 50'x100' lot in a neighborhood that is predominately 50'x100' lots is out of character.

Chairman Breault addressed Mr. Wichert and said he mentioned the conditional use permit, that a 50'x100' can be subdivided and built on. He said that is typically in the R-2 zoning district or for a single-family, is it not. Mr. Wichert said it is and that is what he is saying, but they would still have to come to the ZBA to create 644 Grove Street on a 50'x100' lot. He said because they are here and this lot has the alley access and it lays out that they can do a two-family dwelling, they are asking for the variance for a two-family dwelling and he thinks that is what is unique about this property. If they didn't have the alleyway, over the years they have done enough of them that by the time you squeeze in four parking spaces, the driveway and the size building everybody wants, they are really tight to the lot coverage and it gets a little bit convoluted. On this one, because they have the alley, they have probably done fifteen or twenty of them and they fit in well and people still have a usable yard and there is some green space out front and on the sides and even behind it with this.

Anne Ketterer said she just wanted to say that she agrees with Mr. Wichert's assertion that he can reasonably subdivide this property and make a separate 50'x100' lot. It is all over the neighborhood. She said the issue that she has with this application is the request to make that new smaller lot a multi-family. She said when you look all around that neighborhood, she understands that directly there are much bigger structures and that is all well and good. She said in this particular area, Mr. Wichert mentioned the property directly on this lot to the west that is a two-family. She said it is two families that are on roughly the size of this existing lot and he is proposing to put three-families on the size of this existing lot by means of subdividing and then putting a duplex on. She said she gets it about the back alley as they are all over Manchester so this isn't anything new or special. There is no hardship for him to build a two-family and he is asking them to bend the rules and to that point, she actually agrees with the abutter. She said he is asking the Board to bend the rules because he feels like it and he wants to make more money. She said she gets it and it is a fair question to ask and that is why he is here and that is why the Board sits here and deliberates. She just doesn't particularly agree that he has a hardship. She agrees about the subdivision, she doesn't agree about the multi-family. He doesn't have enough space.

Alderman Roy said Joseph Wichert said that across the street on the south side of Grove Street they are all 50 footers and he is looking at the paperwork here and maybe it is his eye being bad, but it looks like they are all 60 foot wide lots. Joseph Wichert said Alderman Roy's eyes are good and his are bad. Alderman Roy said he agrees with Anne Ketterer that trying to squeeze a two-family is not in the character of the neighborhood. He said he drove through there and other to the one to the west which looks two buildings to him when he drove by, he doesn't think it fits the character of the neighborhood and where is the hardship here.

Chairman Breault said he tends to agree on the two-family characteristic. He doesn't have a problem with the subdivision but he thinks it is a stretch for a two-family. He said he thinks the abutter brings up a valid point about the pool. He said he didn't know what everybody else was feeling is on that or if the applicant would be willing to remove it or move it to make it compliant. He said let's make a motion on this one and see where it goes.

Joseph Wichert said before a motion was made, he said he understands the concern and he thinks that the courts over the years have softened the hardship criteria. It is not necessarily what the hardship is, but he thinks it is what is unique about the property. Is it going to change the character of the property? He said the question he was asked was is there an interior lot that is a two-family and the lot to the west is, so that was his answer. Directly to the northeast, which is Lot 41 is a two-family and directly to the southeast, Lot 6 is a two-family. In a span of six or ten houses, 30% are two-families. He is not saying there is a reason they are here and the reason is that they would prefer to build a two-family and he thinks that if the Board looks at the surrounding values, a two-family in this area is not going to reduce or significantly alter the value of the surrounding neighborhood. He said it is zoned R-2 and one of the items that they hear all the time, whether you go to the Master Plan sessions or to whatever, there is a lack of affordable housing in the City. They have an area that is zoned for two-family dwellings and there are other similar two-family dwellings so you could argue the one to the west is the two little boxes connected by a joiner, isn't similar for what they proposed. He said you would get an additional unit of housing stock on a lot that is otherwise complying and comparable to the neighborhood.

Mr. Wichert said Alderman Roy is correct. On the south side of Grove Street, those are 60 feet. If you go on the backside of Green Street South Back, most of those are 50 feet. There are three in the middle and the ones directly behind them are 50 feet, the one on the corner is 61 feet and then Lot 45 is 75 feet. He doesn't think at the end of the day, a 50'x100' lot is out of character and they have the ability to put the parking off the street. He said the hardship isn't I can't do anything with my lot so you have to give me a variance. He thinks it's what is unique about this property and it is in an area that is zoned for a two-family, it can comply with the Ordinance and it would give the City an additional unit of housing stock.

Anne Ketterer said Mr. Wichert talks about the uniqueness of the lot and she is going to say one more time, it is not unique. She said there are back alleys all over Manchester. It is a blessing and a curse in this town. It is not unique. Secondly, it is in the R-2 district and he is asking to subdivide it to add a second dwelling and the she is saying, ok, that makes sense

and that is her opinion. She doesn't think that they disagree on that, the only thing they disagree on is that once you subdivide it and make it tiny, it is inappropriate at least in her mind to make that a multi-family. She said you have a lot and it has one dwelling on it and you want to add a dwelling and she is saying she agrees. What she disagrees with is that that one lot is appropriate for three dwellings. To go back to her point that no, your property sir, is not unique.

Joseph Wichert said the only two things he would bring up are that Ms. Ketterer is right but he doesn't think he is saying that alleys are unique. When you have a City that is basically developed on a 50'x100' grid and the zoning changes 75 years after the plan is created, that is the reason they are here for the variance. He said just so we are clear, because if he writes his paperwork up this way, he has it kicked back by staff, by Ordinance, a two-family dwelling is still a residential dwelling and it is not a multi-family. They are proposing a duplex but not necessarily a multi-family dwelling.

Vice Chairman Lovell said he had some comments. He said he respectfully disagrees with folks that are saying that this is out of character with the neighborhood. He said he doesn't know this neighborhood that well but he did have a chance to go through some of the GIS parcels and everything and he is familiar with 50'x100' neighborhoods. That is basically where he has lived in Manchester and it looks like this area has quite a few 50'x100' two-family dwellings and we do need more housing in the area. He said he doesn't think he is against this. He thinks this does meet the five criteria.

Jose Lovell made a motion to grant the following variance counts for case ZBA2020-029, 6.01 Minimum Buildable Lot Area and 6.02 Minimum Lot Frontage and Width (2 counts) at proposed Lot 38A and 6.01 Minimum Buildable Lot Area, 6.02 Minimum Lot Frontage and Width (2 counts), 6.03(C) Side Yard Setback and 8.29(A)3 Accessory Structures and Uses at proposed Lot 38 which was seconded by Mike Simoneau.

Yeas: Lovell, Simoneau, Guerra

Nays: Roy, Breault

Upon a split vote, the variance was granted.

10. **ZBA2020-036**
97 Megan Drive, R-1B Zoning District, Ward 6

Tulio Demelo, proposes to maintain an undersized second parking space within the front yard setback and seeks a variance from sections **10.09(B)** Parking Setbacks and **10.06(A)** Parking Layout of the Zoning Ordinance of the City of Manchester, New Hampshire, as per documents submitted through May 18, 2020.

Kaleigh Demelo said they are seeking an allowance for this second parking space. She said this parking space was already in place when they purchased the home on December 31,

2018 and they are currently in the process of trying to sell their home because they are moving for work purposes and they want to make sure that this is taken care of before there is any new homeowner.

Chairman Breault turned the hearing over to the Board.

Alderman Roy said he had a comment. He said having driven past this residence, he took note and almost all of the single families in that area have the same situation going on. He said 73 Megan Drive, 62 Megan Drive and 54 and 42 Megan Drive. He said he stopped writing after those because there are others. He said he didn't think this is going to affect the neighborhood whatsoever. It is not going to be contrary to public interest.

Guy Guerra said he agreed with Alderman Roy. He said this is in his area and driving by, Alderman Roy is correct. There are a number of them, with a single car garage and the extra space on the side actually comes in handy.

Chairman Breault said he agreed with both Alderman Roy and Guy Guerra. He said there are several on that street when he drove through and he noted a similar situation of what Alderman Roy referred to. He said he thinks this meets the intent of the Ordinance and it is in the spirit of the Ordinance. He said he thinks substantial justice would be done granting this variance.

Chairman Breault turned the hearing over to the public. He asked if there was any correspondence from the public either in favor or in opposition to this application or any general comments.

Michael Landry said there was an email in favor of this application. He read the email into record.

To Whom It May Concern,

I, Brandon Stumpf am a resident at 85 Megan Drive, Manchester, New Hampshire. I am writing on behalf of Tulio Demelo at 97 Megan Drive, Manchester, New Hampshire so that he may maintain the undersized parking space at his recently purchased residence. This addition was added by a previous owner and is not a feature that diminishes the appearance of the neighborhood in any manner. If anyone wishes to contact me for further information, I can be contacted at this email address.

Sincerely,

Brandon Stumpf

Mr. Landry said that was all the correspondence he had.
Chairman Breault turned the hearing back over to the Board.

Michael Simoneau said he agrees that this meets the five criteria and as Mr. Guerra said, it is common to the area so it is not going to diminish value in the neighborhood.

Michael Simoneau made a motion to grant the following variance counts for case ZBA2020-036, 10.09(B) Parking Setbacks and 10.06(A) Parking Layout which was seconded by Mike Simoneau.

Yeas: Breault, Lovell, Simoneau, Roy, Guerra,

Nays: None

Upon a unanimous vote, the variance was granted.

III. BUSINESS MEETING:

1. ADMINISTRATIVE MATTERS:

1. Review and approval of the ZBA Minutes of May 7, 2020.

Review and approval of the ZBA Minutes of May 7, 2020 were postponed until the June 11, 2020 ZBA Meeting.

2. Any other business items from the ZBA staff or Board Members.

There was discussion about when the ZBA Meetings would be held in the Aldermanic Chambers. After discussion among Staff and the Board Members, it was decided that the June 11, 2020 ZBA Meeting would be held remotely.

Guy Guerra made a motion to adjourn the ZBA Meeting of May 28, 2020 which was seconded by Jose Lovell.

Yeas: Breault, Lovell, Simoneau, Roy, Guerra, Ketterer, Hirschmann

Nays: None

Upon a unanimous vote, the ZBA Meeting of May 28, 2020 was adjourned.

Attest: 
Robert G. Breault Chairman
Manchester Zoning Board of Adjustment

APPROVED BY THE ZONING BOARD OF ADJUSTMENT: June 11, 2020

- ☐ Without Amendment
☒ With Amendment

Each case file is available on-line at <http://www.manchesternh.gov/Departments/Planning-and-Comm-Dev/Zoning-Board/Project-Applications>. Or search for "Manchester NH ZBA Project Applications".

The order of the agenda is subject to change on the call of the Chairman.